

Paragraph (b) of this sub-regulation is not relevant to the present case.

We come next to sub-regulation (3) which provides that any person to whom a provisional licence is granted fails to comply with any of the conditions subject to which it is granted he shall be guilty of an offence and be liable to a fine of \$300 or two months' imprisonment or both.

The first question that arises upon this somewhat complicated regulation is whether a driver who at the same time fails to comply with conditions (a) and (c) is guilty of one offence or two. I have come to the conclusion that in such circumstances two offences are committed.

The next difficulty is to draft the charges and in order to assist both Courts and Prosecutors I here set out the manner in which it appears to me the offences, the subject matter of the present case, should have been charged:—

1. That you on the 5th May, 1955 at 9.30 a.m. at the junction of Green Lane and Glugor Road, Penang, being the holder of a provisional driving licence did fail to comply with one of the conditions subject to which it was issued, viz. that you used a motor car without being under the supervision of a person holding an appropriate driving licence and you thereby committed an offence under Regulation 14(3) of the Motor Vehicles (Driving Licences) Regulations, 1952.

2. That you at the same time and place being the holder of a provisional driving licence did fail to comply with one of the conditions subject to which it was issued, viz. that a motor car driven by you did not display either in front or at the back an "L" plate as prescribed and you thereby committed an offence punishable under Regulation 14(3) of the Motor Vehicles (Driving Licences) Regulation, 1952.

It is clear, I think, from the Regulations that the offence consists in failure to comply with the conditions and for this reason I think it is essential that it should be so charged.

In the present case I see no reason to alter the sentence in any way because the maximum fine upon each breach of condition is \$300. I therefore alter the convictions to convictions upon the charges set out above and maintain the sentence.

Order accordingly.

MUNIANDEY v. PUBLIC PROSECUTOR

[A. Cr. J. (Wilson J.) September 27, 1955]

[K. L. — Criminal Appeal No. 69 of 1955]

Criminal Procedure Code (Cap. 6), ss. 426 and 432 — Order for payment of compensation — Whether imprisonment can be ordered in default of payment.

In this case the appellant was convicted of voluntarily causing hurt to two persons. The learned Magistrate in addition to sentencing him for the offences ordered the appellant to pay compensation to the two persons whom he injured and in default of payment he was sentenced to terms of imprisonment. The learned Magistrate further ordered the appellant to pay compensation to a witness who had suffered some damage, but the damage was not caused by the charge of which the appellant was convicted.

Held: (1) s. 426(ii) of the Criminal Procedure Code provides that para. (d) of s. 432(i) of the Code shall not apply to compensation awarded under s. 426 and therefore the Magistrate was wrong in ordering the imprisonment in default of payment of compensation; (2) as the damage to the witness was not caused by the charge of which the appellant was convicted, an order could not be made for the payment of compensation under s. 426(i)(b) of the Code.

[Editorial Note: s. 445 of the Criminal Procedure Code, 1955 (Singapore) expressly provides that the provisions of s. 447 shall be applicable to an order for compensation and it would seem that in Singapore an order of imprisonment can be awarded in default of payment of compensation.]

MAGISTRATE'S CRIMINAL APPEAL.

Appellant in person.

E. Brown (Federal Counsel) for the respondent.

Wilson J.: — The appellant was properly convicted on two charges of voluntarily causing hurt to two individuals. The appeal against the conviction was dismissed.

The learned Magistrate made an order for payment of compensation in the sum of \$30 to one Krishna Mudeliar. Undoubtedly, this individual who was a witness suffered some damages for which the appellant ought to pay. This damage, however, was not caused by the charge of which he was convicted and, therefore, an order could not be made for the payment of compensation under section 426(i)(b) of the Criminal Procedure Code.

The appellant was also ordered to pay compensation to the two persons whom he injured, and in default of payment was ordered, in one case, to suffer 14 days' imprisonment and, in the other case, to suffer 7 days' imprisonment. Although section 432(i)(d) of the Criminal Procedure Code provides, on the face of it, for imprisonment in default of payment, section 426(ii) provides that paragraph (d) of section 432(i) of the Code shall not apply to compensation awarded under section 426.

The sentences of imprisonment in default of payment of compensation are quashed. The appeal against the sentences imposed, both of imprisonment and six strokes of the rotan, is dismissed.

Order accordingly.